

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LANCE THORNTON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:23-cv-164
)	
STEVEN DELUCA, JOHN DOE 1,)	JUDGE CATHY BISSOON
JOHN DOE 2, JOHN DOE 3,)	
JOHN DOE 4, JOHN DOE 5,)	<i>(Electronic Filing)</i>
JOHN DOE 6, JOHN DOE 7,)	
JOHN DOE 8, JOHN DOE 9,)	
JOHN DOE 10, AND CITY OF ERIE,)	
PENNSYLVANIA,)	
)	
Defendants.)	

MOTION FOR SUBSTITUTION OF PARTY

The United States of America, by its attorneys, Troy Rivetti, Acting United States Attorney for the Western District of Pennsylvania, and Kezia O. L. Taylor, Assistant United States Attorney, pursuant to 28 U.S.C. § 2679(d), respectfully moves the Court to issue an Order substituting the United States of America for Steven DeLuca as a defendant with respect to any claims asserted against him in Plaintiff's Praecipe for Writ of Summons and the Pre-Complaint Discovery Requests Directed to Defendant Steven DeLuca and the City of Erie, and dismissing Steven DeLuca from this action, with prejudice. In support of this Motion, the United States avers as follows:

1. On or about March 24, 2023, Plaintiff filed a Praecipe for Writ of Summons, and on or about April 20, 2023, he filed Pre-Complaint Discovery Requests Directed to Defendant Steven DeLuca and the City of Erie at No. 10721-2023 in the Court of Common Pleas of Erie County, Pennsylvania, Civil Division, against Defendants Steven DeLuca, John Doe 1, John Doe

2, John Doe 3, John Doe 4, John Doe 5, John Doe 6, John Doe 7, John Doe 8, John Doe 9, John Doe 10, and the City of Erie, Pennsylvania.

2. On June 6, 2023, the United States removed the action to this Court. A copy of the Notice of Removal was sent via certified U.S. mail to Aubrea Hagerty-Hayne, Prothonotary, Erie County Courthouse; to Counsel for Plaintiff; and to Counsel for Co-Defendant City of Erie.

3. At the time of the incident concerning the subject matter set forth in Plaintiff's Pre-Complaint Discovery Requests Directed to Defendant Steven DeLuca and the City of Erie, Steven DeLuca was deputized as an employee of the United States Marshals Service, an agency of the United States, and was acting within the course and scope of that employment.

4. Pursuant to 28 U.S.C. § 2679(d), the Attorney General of the United States, by the United States Attorney for the Western District of Pennsylvania, certified that Steven DeLuca was acting within the scope of his employment with the United States Marshals Service at the time of the incident giving rise to the within action.

5. Accordingly, Steven DeLuca is entitled to individual immunity from suit under the Federal Tort Claims Act. 28 U.S.C. § 2671, *et seq.*

6. The Federal Tort Claims Act provides that all actions arising thereunder must be brought in the name of the United States of America, not in the name of the federal employee or entity who is allegedly negligent. 28 U.S.C. § 2679(a).

7. Therefore, the United States of America should be substituted for Steven DeLuca as a named defendant in this action with respect to the claims found in the Praecipe for Writ of Summons and the Pre-Complaint Discovery Requests Directed to Defendant Steven DeLuca and the City of Erie, and he should be dismissed from this action with prejudice.

8. A Brief in Support of this Motion is being filed simultaneously herewith, and the contents therein are hereby incorporated by reference.

WHEREFORE, the United States respectfully requests that the Court issue an Order substituting the United States of America for Steven DeLuca as a defendant in this action with respect to the claims asserted against him, and dismissing him from this action, with prejudice.

A proposed Order is attached.

Respectfully submitted,

TROY RIVETTI
Acting United States Attorney

/s/ Kezia Taylor
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Counsel for Defendant Steven DeLuca

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 2023, a true and correct copy of the within Motion for Substitution of Party was served by first-class mail upon the following:

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/s/ Kezia Taylor
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